



RULE-MAKING ORDER

CR-103 (June 2004)
(Implements RCW 34.05.360)

Agency: Department of Health

- ☒ Permanent Rule
☐ Emergency Rule

Effective date of rule:

Permanent Rules

- ☐ 31 days after filing.
☒ Other (specify) August 15, 2006 (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Effective date of rule:

Emergency Rules

- ☐ Immediately upon filing.
☐ Later (specify) _____

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

☐ Yes

☐ No

If Yes, explain:

Initial extension of the effective date of the rule, as described below, was due to a request from the Department of Ecology for time to evaluate potential issues arising from the application, if any, of the Cleanup Priority Act (CPA), RCW 70.105E, to the disposal of NARM at the commercial low-level radioactive waste disposal site, before the rule took effect. Ecology's evaluation indicates the need to obtain the federal district court's decision on summary judgment in the case of United States v. Manning, CV-04-5128-AAM, in order to fully analyze the CPA's application, if any, to NARM disposal at the commercial site. Arguments on summary judgment are currently scheduled for May 23, 2006, and a decision from the court is expected next summer. To provide adequate time for the court to rule and Ecology to consider the court's ruling with respect to its implementation of the CPA, the extension of the effective date of the rule is continued to August 15, 2006. Toward the end of this period, the Department of Health will evaluate whether or not the court's decision and Ecology's subsequent analysis of the CPA's application to NARM disposal at the commercial site affects this rulemaking.

Purpose: : The purpose of this order is to amend the rule-making order, WSR 05-21-128, filed on October 19, 2005, adopting amendments to chapter 246-249 WAC, to extend the effective date of the rule. The order of adoption identified the effective date of the rule as 31 days after filing, or November 19, 2005. By amended order of adoption, dated November 18, 2005, the effective date of the rule was extended to December 23, 2005. This second amended order of adoption continues the extension of the effective date of the rule to August 15, 2006.

The purpose of this rule-making is to amend Chapter 246-249 WAC to allow disposal of up to 100,000 cubic feet per year of diffuse naturally occurring and accelerator produced radioactive Material (NARM) disposed at the commercial low-level radioactive waste site in Richland, Washington. The amendment also allows the licensee to seek approval to dispose of diffuse NARM volumes greater than of 100,000 cubic feet if there are unused volumes from previous years.

Citation of existing rules affected by this order:

Repealed:

Amended: 246-249-001, -010, -080, -090

Suspended:

Statutory authority for adoption: 70.98.050

Other authority :

PERMANENT RULE ONLY (Including Expedited Rule Making)

Adopted under notice filed as WSR 05-17-189 on August 24, 2005 (date).

Describe any changes other than editing from proposed to adopted version:

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name:

phone () _____

Address:

fax () _____

e-mail _____

EMERGENCY RULE ONLY

Under RCW 34.05.350 the agency for good cause finds:

- ☐ That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
☐ That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:

Date adopted: 12/21/05

NAME (TYPE OR PRINT)

Mary C. Selecky

SIGNATURE

Mary C. Selecky

TITLE

Secretary

CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

CODE REVISER USE ONLY

DEC 21 2005

TIME

WSR

932

06-01-105

AM
PM

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	_____	Repealed	_____

The number of sections adopted at the request of a nongovernmental entity:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in the agency's own initiative:

New	_____	Amended	<u>4</u>	Repealed	_____
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	_____	Amended	<u>3</u>	Repealed	_____
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The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	_____	Amended	_____	Repealed	_____